



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2021-0785; FRL-9591-02-R1]

Air Plan Approval; New Hampshire; Env-A 800 Testing and Monitoring Procedures, Env-A 619.03 PSD Program Requirements, and Env-A 1200 VOC RACT

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. These revisions amend Testing and Monitoring Procedures for sources of air pollution; revise New Hampshire's Prevention of Significant Deterioration (PSD) permitting program with respect to requirements for air quality modeling; fully approve certain infrastructure SIP requirements as they related to PSD permitting requirements for the 2015 Ozone and 2012 fine particle matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS); and amend Volatile Organic Compounds (VOCs) Reasonably Available Control Technology (RACT). This action is being taken under the Clean Air Act (CAA).

DATES: This rule is effective on **[Insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2021-0785. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office

Square - Suite 100, Boston, MA. EPA requests that, if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19.

FOR FURTHER INFORMATION CONTACT: John Creilson, Air Quality Branch, U.S.

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SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Table of Contents

- I. Background and Purpose
 - a. Env-A 800 Testing and Monitoring Procedures
 - b. Env-A 619.03 PSD Program Requirements
 - c. Env-A 1200 VOC RACT
- II. Final Action
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

I. Background and Purpose

On March 3, 2022 (87 FR 12016), EPA published a notice of proposed rulemaking (NPRM) for the State of New Hampshire proposing to approve several SIP revisions submitted by the State. Information about the proposed SIP revisions are as follows.

a. Env-A 800 Testing and Monitoring Procedures

On August 19, and subsequently on December 20, 2021, the New Hampshire Department of Environmental Services (NH DES) submitted a revision to its State Implementation Plan (SIP). The submittal consisted of revisions to an existing rule, Env-A 800, Testing and Monitoring Procedures, that was previously approved into the New Hampshire SIP. Env-A 800 establishes testing and monitoring procedures, calculation procedures, standards, and requirements used to determine compliance with Federal and state air pollution regulations.

b. Env-A 619.03 PSD Program Requirements

On September 16, 2021, NH DES submitted a revision to its SIP-approved regulation Part Env-A 619.03, the State's CAA PSD permitting program, updating the reference date for 40 CFR 52.21 to incorporate EPA's current "Guideline on Air Quality Models" in appendix W of 40 CFR part 51. The revision also addressed issues related to EPA's conditional approvals to the State's PSD program for purposes of the 2015 Ozone and 2012 PM_{2.5} NAAQS infrastructure SIP requirements. Specifically, EPA conditionally approved infrastructure SIP elements associated with CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(J), and 110(a)(2)(K). *See* 85 FR 67651 (October 26, 2020). EPA proposed to approve the revision to the New Hampshire SIP and convert these conditional approvals to full approvals.

c. Env-A 1200 VOC RACT

On July 15, 2021, the NH DES submitted a revision to its SIP, which consisted of amendments to an existing rule, Env-A 1200, Volatile Organic Compounds (VOC) Reasonably Available Control Technology (RACT), that was previously approved into the New Hampshire SIP. Env-A 1200 establishes requirements for the implementation of RACT on certain stationary sources located in New Hampshire that emit VOCs.

The rationale for EPA's proposed actions for these revisions is explained in the NPRM and will not be restated here. There were no public comments received on the NPRM.

II. Final Action

EPA is approving New Hampshire's SIP revisions pertaining to Env-A 800 Testing and Monitoring Procedures, Env-A 619.03 PSD Program Requirements, and Env-A 1200 VOC RACT, as described in Section I. EPA is also converting to full approval the 2015 Ozone and 2012 PM_{2.5} NAAQS infrastructure SIP requirements for CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(J), and 110(a)(2)(K).

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by

reference of New Hampshire regulations 1) Env-A 800 as adopted on May 1, 2019, with the exception of section 801.02(b) and (d) and section 810; 2) Env-A 619.03 as adopted on March 16, 2021; and 3) Env-A 1200 as adopted on October 17, 2019, described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State Implementation Plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

¹ 62 FR 27968 (May 22, 1997).

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to

publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 28, 2022.

David Cash,
Regional Administrator,
EPA Region 1.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart EE – New Hampshire

2. In § 52.1520:

a. In the table in paragraph (c):

i. Revise the fourth table heading and the entries for “Env-A 600,” “Env-A 800,” and “Env-A 1200”; and

ii. Add footnote 1; and

b. In the table in paragraph (e), revise the entries for “Submittals to meet Section 110(a)(2) Infrastructure Requirements for the 2012 PM_{2.5} NAAQS” and “Submittal to meet Section 110(a)(2) Infrastructure Requirements for the 2015 Ozone NAAQS”.

The revisions and addition read as follows:

§ 52.1520 Identification of plan.

* * * *

(c) * * *

EPA-Approved New Hampshire Regulations

State citation	Title/subject	State effective date	EPA approval date¹	Explanations
**	*	*	*	**
Env-A 600	Statewide Permit System	4/20/2021	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	Revisions to Env-A 619.13 to incorporate updated reference date to the ambient air quality modeling guidelines at 40 CFR part 51, Appendix W.

Env-A 800	Testing and Monitoring Procedures	4/30/2019	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	Minor revisions to the previously approved Env-A 800 rule be incorporated into the State's SIP, except for Env-A 801.02(b) and (d) that relate to trading, and Env-A 810.
**	*	*	*	**
Env-A 1200	Volatile Organic Compounds (VOCs) Reasonably Available Control Technology (RACT)	10/17/2019	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
**	*	*	*	**

¹ In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** document cited in this column for the particular provision.

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(e) * * *

New Hampshire NonRegulatory

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
**	*	*	*	**
Submittals to meet Section 110(a)(2) Infrastructure Requirements for the 2012 PM _{2.5} NAAQS	Statewide	12/22/2015; supplement submitted 6/8/2016	12/4/2018, 83 FR 62464	These submittals are approved with respect to the following CAA requirements: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (L), and (M).
		12/22/2015	10/26/2020, 85 FR 67651	This submittal is conditionally approved with respect to provisions of CAA 110(a)(2)(K). The following previously approved items are corrected and changed from approval to conditional approval: 110(a)(C) (PSD only), (D)(i)(II) (prong 3 only), and (J) (PSD only).
		4/20/2021	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	Items that were conditionally approved on 10/26/2020 are now fully approved.
**	*	*	*	**

Submittal to meet Section 110(a)(2) Infrastructure Requirements for the 2015 Ozone NAAQS	Statewide	4/20/2021	[Insert date of publication in the <u>Federal Register</u>] [Insert <u>Federal Register</u> citation]	Items that were conditionally approved on 10/26/2020 are now fully approved.
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[FR Doc. 2022-09514 Filed: 5/5/2022 8:45 am; Publication Date: 5/6/2022]